

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HENRY W. BOHANNON,
Petitioner,

Case No. 2:11-cv-01127-PK

v.

ORDER

STEVE FRANKE, Superintendent,
Two Rivers Correctional
Institution,

Respondent.

MARSH, Judge.

Magistrate Judge Paul Papak filed his Findings and Recommendation on June 26, 2013. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of the Magistrate Judge's Findings and Recommendation, I must make a *de novo* determination of that portion of the Magistrate's report. 28 U.S.C. § 636(b)(1)(C); United States v. Reyna-Tapia, 328 F.3d 1114,

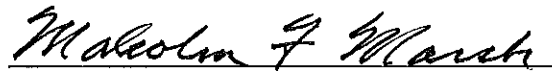
1121 (9th Cir. 2003) (*en banc*).

Petitioner has filed timely objections. Therefore, I have given the file of this case a *de novo* review. I find no error in Judge Papak's conclusion that petitioner procedurally defaulted his available state remedies and failed to make the requisite showing to excuse that default; and, in the alternative, that the claim lacks merit. Accordingly, I ADOPT the Findings and Recommendation (#35).

IT IS ORDERED that petitioner's amended habeas petition (#28) is DENIED, and this proceeding is DISMISSED, with prejudice. Additionally, I ADOPT Judge Papak's recommendation that a certificate of appealability be denied.

IT IS SO ORDERED.

DATED this 16 day of July, 2013


Malcolm F. Marsh
United States District Judge